

December 6, 2018

Ms. Marlene H. Dortch
Secretary, Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Bridging the Digital Divide for Low-Income Consumers*, WC Docket No. 17-287; *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42; *Telecommunications Carriers Eligible for Universal Service Support*, WC Docket No. 09-197

Dear Ms. Dortch:

Q Link Wireless, LLC (“Q Link”) writes to support TracFone’s concerns regarding the Universal Service Administrative Company’s implementation of new criteria for SNAP cards that will be acceptable proof of eligibility in SNAP. The new criteria, which were only recently announced in a USAC webinar and took effect on December 5, 2018, are not fully considered and, if continued, will lead to erroneously cutting eligible SNAP participants from the Lifeline program.

As TracFone highlights, SNAP is one of the programs that establishes a consumer’s eligibility for Lifeline.¹ The FCC eight years ago definitively established an enrollee’s SNAP card as proof of program participation. *Lifeline & Link Up Reform & Modernization Lifeline & Link Up Fed.-State Joint Bd. on Universal Serv. Advancing Broadband Availability Through Digital Literacy Training*, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd. 6656, 6702 (2012) (giving as an example of acceptable documentation of program participation “the consumer’s Supplemental Nutrition Assistance Program (SNAP) electronic benefit transfer card or Medicaid participation card (or copy thereof)”). This was the same order that adopted 47 C.F.R. § 54.410(c)(1)(i)(B), so the rule cannot be interpreted to exclude SNAP benefit cards. And while the Commission in 2016 directed USAC to propose acceptable documentation for manual review to the Wireline Competition Bureau, including for SNAP cards without identifying information, it did not grant USAC the authority to adopt such processes without new rules.² Nonetheless, USAC has now applied additional mandatory criteria for these cards, including a name and issue/expiration date,³ which effectively bar the use of these cards as proof of eligibility in many states simply because the states do not issue SNAP cards meeting those criteria.⁴

¹ See 47 C.F.R. § 54.409(b).

² *Lifeline & Link Up Reform & Modernization*, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd. 3962, 4010 n.372 (2016).

³ See USAC Lifeline Program Reminder: Updates to National Verifier Processes Effective December 4, Nov. 28, 2018; see also <https://www.usac.org/li/tools/national-verifier/acceptable-eligibility-documentation.aspx>

⁴ It does not appear that USAC has made publicly available a list of states that do not issue SNAP cards that meet its criteria.

Thus, without any comment process, transparency, or authority, USAC has reversed the Commission's 2012 Order. Of course, USAC lacks the authority to implement such a change without an order by the full Commission.⁵ Unless and until the Commission adopts a change through notice and comment rulemaking, USAC must accept all SNAP cards as proof of enrollment, even though the content of those cards has changed over time and varies by state.

Because this change is unlawful and threatens immediate harm to consumers, the Commission must take immediate action to stay it. The Commission must then take the necessary steps to evaluate potential changes in an open and transparent manner to ensure that the burdens being imposed on existing Lifeline subscribers and other eligible consumers are manageable and reasonable for those consumers given the many challenges faced by the various demographic groups served by the Lifeline program.

In particular, the Commission needs to collect facts from entities that work with low-income consumers, as well as Lifeline service providers, to assess and strike the appropriate balance between consumer access and program integrity. The Commission must be sure that realistic and workable ways are available for a SNAP participant to be able to demonstrate his or her eligibility, if their state's SNAP card will no longer be deemed to be sufficient proof of program participation.⁶ Any change should (and indeed must) be subject to notice and comment rulemaking, both to comply with the Administrative Procedures Act's requirements for changing legislative rules and to ensure that there are feasible alternatives available or a transition plan in place to allow the development of alternatives.

In addition, any change should be applicable only to new subscribers, rather than to existing subscribers. With adequate notice, service providers can change processes, update training, and collect different documentation from new subscribers, but trying to collect different documentation from existing subscribers is much more difficult, and will result in too many eligible low-income consumers being cut-off from communications services essential for reaching 911, accessing and interacting with other government services, connecting to healthcare and education, getting and keeping a job, and staying connected to family and community.

⁵ See 47 C.F.R. § 54.702(c).

⁶ Notably, it is unrealistic to require all SNAP participants to produce an award letter that they may have received years ago in order to document Lifeline eligibility.

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Q Link respectfully urges the Commission to act now, so that consumer harms caused by USAC's new guidance can be mitigated.

Sincerely,

A handwritten signature in black ink, appearing to read "John T. Nakahata".

John T. Nakahata
Counsel to Q Link Wireless, LLC

cc:	Chairman Ajit Pai	Trent Harkrader
	Commissioner Brendan Carr	Ryan Palmer
	Commissioner Jessica Rosenworcel	Jodie Griffin
	Nirali Patel	Allison Baker
	Jamie Suskind	Allison Jones
	Travis Litman	
	Arielle Roth	